

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA, )

Plaintiff,

VS.

ELEVEN MILLION FIVE  
HUNDRED SEVENTY-SEVEN  
THOUSAND EIGHT HUNDRED  
EIGHTY (11,577,880) ASSORTED  
BRANDS OF CIGARETTES.

## Defendants.

CV-03-3084-RHW

## Final Order of Forfeiture

Plaintiff, United States of America, alleged in a Verified Complaint for Forfeiture In Rem, that the defendant property is subject to forfeiture to the United States pursuant to 18 U.S.C. § 2344(c) and 18 U.S.C. § 981(a)(1)(A).

The Court has jurisdiction over this matter by virtue of 28 U.S.C. §§ 1345 and 1333. Venue is proper pursuant to 28 U.S.C. § 1335.

The defendant property being forfeited is described as follows:

Proceeds in the amount of \$234,451.65 from the interlocutory sale of the defendant cigarettes.

On July 24, 2003, David Z. Bean d/b/a Indian Smoke Shop was served via certified mail with copies of the Verified Complaint for Forfeiture In Rem, and Notice of Complaint for Forfeiture, in the above-entitled matter, as evidenced by the Certificate of Service of Notice by Mail filed with the Court on July 24, 2003.

1       On July 23, 2003, Attorney Allen M. Ressler was served via certified mail with  
2 copies of the Verified Complaint for Forfeiture In Rem, and Notice of Complaint for  
3 Forfeiture, in the above-entitled matter, as evidenced by the Certificate of Service of  
4 Notice by Mail filed with the Court on July 23, 2003.

5       On August 4, 2003, Allen M. Ressler filed an unverified response, on behalf of  
6 David Z. Bean, to the complaint for forfeiture.

7       All but a representative sample of the cigarettes were sold pursuant to an Order  
8 for interlocutory sale filed August 6, 2003. The proceeds from said sale, \$234,451.65,  
9 are being held in the U.S. Customs Accounting Services Division suspense account  
10 pending further order of the Court.

11       On May 12, 2004, David Z. Bean entered into a Plea Agreement, in United  
12 States v. David Z. Bean, Court Case No. CR-04-2076-FVS, in which David Z. Bean  
13 agreed to the civil or criminal forfeiture of the property without further notice

14       On February 16, 2006, David Z. Bean d/b/a Indian Smoke Shop entered into a  
15 Stipulation for Order of Forfeiture of the defendant property, filed with the Court on  
16 February 17, 2006.

17       The Notice of Complaint was published on November 11, 20, and 27, 2003, in  
18 the Tacoma Daily Index, a newspaper of general circulation in Pierce County,  
19 Washington, as evidenced by the TDF-90 form filed with the Court on January 15,  
20 2004. Rule C of the Supplemental Rules for Certain Admiralty and Maritime Claims,  
21 Fed. R. Civ. P., and 18 U.S.C. § 983(a)(4)(A), require that claimants file a claim  
22 within thirty (30) days after final date of publication of the Notice of Complaint for  
23 Forfeiture, or within thirty (30) days after service of the complaint, whichever occurs  
24 first. At the latest this 30-day period expired on December 29, 2003.

25       It appearing to the Court that the interest of David Z. Bean d/b/a Indian Smoke  
26 Shop has been resolved by the entry of the Stipulation for Order of Forfeiture, filed  
27 with the Court on February 17, 2006; and the Plea Agreement in United States v.

1 David Z. Bean, Court Case No. CR-04-2076-FVS, filed with the Court on May 12,  
2 2004;

3 It further appearing to the Court that no other claims have been made to the  
4 defendant property;

5 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the  
6 proceeds from the interlocutory sale of the defendant cigarettes are hereby forfeited  
7 to the United States of America, and no right, title, or interest shall exist in any other  
8 person.

9 IT IS FURTHER ORDERED that the forfeited property shall be disposed of in  
10 accordance with law by the United States.

11 DATED this 8<sup>th</sup> day of March, 2006.

12 s/ Robert H. Whaley

13 ROBERT H. WHALEY  
14 Chief United States District Judge

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